

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

John Doe, Jane Doe,	)	C/A No.: 6:15-1714-BHH
	)	
Plaintiffs,	)	
	)	<b>ORDER AND OPINION</b>
vs.	)	
	)	
City of Simpsonville; Jason Weibel; Justin	)	
Chandler; Greenville Health System; Mary	)	
Schneider; Carolina Emergency Physicians	)	
PA; Teresa Oldson; Richard Mills;	)	
Chestnut Hill Mental Health Center, Inc.,	)	
d/b/a Spring Brook Behavioral Health	)	
System; Jill Aiken; Sergio Sanchez; Kia	)	
Morgan; Richard Roes 1–100;	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On October 20, 2015, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed without prejudice for failure to properly serve Defendants within the time limits set out in Rule 4(m) of the Federal Rules of Civil Procedure. (ECF No. 10.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those

portions of the Report and Recommendation to which specific objections are made.

This case is unique in that the John and Jane Doe Plaintiffs' identities are unknown to the Court, and Plaintiffs' counsel, J. Todd Kincannon, is no longer active in CM/ECF. The Clerk mailed copy of the Report and Recommendation to J. Todd Kincannon, 200 Townes Road, Columbia, South Carolina, 29210, via certified mail. The envelope containing the Report and Recommendation, however, was returned as Unclaimed and unable to forward. (ECF No. 12.) Plaintiffs filed no objections and the time for doing so expired on November 9, 2015. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no objections have been filed, and because the Court has no way to identify the John and Jane Doe Plaintiffs in this case, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Attorney Kincannon be ordered to notify Plaintiffs that the case has been dismissed without prejudice and inform them that they may refile the case with representation by another attorney or *pro se*. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED without prejudice.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

January 27, 2016  
Greenville, South Carolina

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.